Message

From: Kenyon, Cristin@Coastal [Cristin.Kenyon@coastal.ca.gov]
Sent: 2/10/2020 6:33:48 PM
To: Reed, Charles@Waterboards [Charles.Reed@waterboards.ca.gov]
CC: Moore, Heaven@Waterboards [Heaven.Moore@Waterboards.ca.gov]; Merrill, Bob@Coastal [Bob.Merrill@coastal.ca.gov]; Whitson, Amelia [Whitson.Amelia@epa.gov]; Mitschele, Becky [Mitschele.Becky@epa.gov]
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Thanks, we appreciate your staff accommodating the change. We can tentatively reschedule for Thursday afternoon next week.

From: Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>
Sent: Monday, February 10, 2020 10:32 AM
To: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>; Amelia Whitson <Whitson.Amelia@epamail.epa.gov>; Becky Mitschele <Mitschele.Becky@epa.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Cristin, there is much support from our staff to postpone today's scheduled phone conference. Let's postpone it and try to find a time next week. Thursday afternoon still looks best from our side.

From: Reed, Charles@Waterboards
Sent: Monday, February 10, 2020 9:38 AM
To: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>; Amelia Whitson <Whitson.Amelia@epamail.epa.gov>; Becky Mitschele <Mitschele.Becky@epa.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Let me ask around our office to see which day(s) are best to reschedule. My quick calendar check shows Thursday afternoon as free for RWQCB staff.

Amelia and Becky, do you have time on Wed-Friday next week for a rescheduled phone conference.

From: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Sent: Monday, February 10, 2020 9:29 AM
To: Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>; Amelia Whitson <Whitson.Amelia@epamail.epa.gov>; Becky Mitschele <Mitschele.Becky@epa.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

EXTERNAL:

Hi Charles,

Bob unfortunately is unable to attend our meeting today because of some last-minute developments with our Commission meeting this week. I think having Bob at this meeting is really critical, so I am wondering if we can

reschedule for next week? Both Bob's and my schedule are wide open next week, especially Wednesday, Thursday, and Friday. Will any of those days work for you and the EPA? I apologize for the last-minute meeting change request.

Thanks,
Cristin

Cristin Kenyon, AICP
Supervising Analyst
California Coastal Commission
1385 8th St, Suite 130, Arcata, CA 95521
Phone: 707.826.8950 Ext. 5
Fax: 707.826.8960
To purchase a whale tail license plate or access Coastal Commission information, go to www.coastal.ca.gov

---

From: Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>
Sent: Wednesday, January 15, 2020 3:42 PM
To: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>; Amelia Whitson <Whitson.Amelia@epamail.epa.gov>; Becky Mitschele <Mitschele.Becky@epa.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Cristin,

It was suggested to me that we may need up to 3 hours.

I'm also adding Amelia Whiton and Becky Mitschele from EPA because there are some permitting issues related to the discussion.

Charles

Charles Reed, P.E.
Supervising Water Resource Control Engineer
Point Source Control and Groundwater Protection Division
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
Phone (707) 576-2752
Fax (707) 523-1035

From: Reed, Charles@Waterboards
Sent: Wednesday, January 15, 2020 3:11 PM
To: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Can we set aside 1-3 pm on 2/10 to talk?

From: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Sent: Tuesday, January 14, 2020 9:56 AM
To: Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Goodwin, Cathleen@Waterboards <Cathleen.Goodwin@waterboards.ca.gov>; Bernard, Lisa@Waterboards <Lisa.Bernard@waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

EXTERNAL:

Hi Charles,

It would be great if our District Manager Bob Merrill could attend, and he has some major deadlines this month that are consuming all of his time. Would you be available for a conference call early February instead? February 7th, the afternoon of the 10th, and the 11-12 work for us. Do any of those dates work for you?

From: Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>
Sent: Monday, January 13, 2020 9:30 AM
To: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Goodwin, Cathleen@Waterboards <Cathleen.Goodwin@waterboards.ca.gov>; Bernard, Lisa@Waterboards <Lisa.Bernard@waterboards.ca.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Cristin,

Thanks for the phone call on Friday. We would like to schedule a conference call with you to discuss the issues that you highlighted in your message.

This week is not good for me. Next week is marginally better (Monday afternoon 1/20?). The week of 1/27, better still.

Let's see if we can pull something together.

Charles

Charles Reed, P.E.
Supervising Water Resource Control Engineer
Point Source Control and Groundwater Protection Division
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
Phone (707) 576-2752
Fax (707) 523-1035

From: Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>
Sent: Friday, January 3, 2020 9:35 AM
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>; Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Goodwin, Cathleen@Waterboards <Cathleen.Goodwin@waterboards.ca.gov>; Bernard, Lisa@Waterboards <Lisa.Bernard@waterboards.ca.gov>; Cavalieri,

Madeline@Coastal <Madeline.Cavalieri@coastal.ca.gov>; Ducklow, Kelsey@Coastal <Kelsey.Ducklow@coastal.ca.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

EXTERNAL:

Hi Charles,

I don't know if we have met – I have been the lead analyst here in our North Coast District Office for Eureka permitting and local coastal program matters for the past six years.
As Melissa discusses in her email, we would be happy to have a conservation about the feasibility of a horizontal levee project, but I think that conversation may be premature. I think we should first explore whether there is a permitting path forward for the wastewater treatment project that the City is attempting to mitigate. This would mean taking a step back and first having conversations about your planning process with the City to date so that we can understand more about what upgrades are being proposed and what alternatives have been explored and the degree to which they have been explored.

I really appreciate you reaching out because I've been meaning to contact the Regional Board for some time about the needed upgrades to the City's wastewater treatment process. The Coastal Commission originally issued a coastal development permit for the City's plant, support facilities, and outfall in 1980 (CDP 80-P-39) and future work on the plant and outfall requires permit authorization from the Commission. Since we became aware of the Regional Board's cease and desist order and the potential improvements to the treatment process, we have been asking the City to keep us informed and coordinate with us, but so far we are completely out of the loop on the planning process. It sounds like the City has chosen an alternative for the future of its WWTP and outfall without consultation with us and thus potentially without crucial information about feasibility, cost, etc.

The City's WWTP and outfall are post-Coastal Act developments that do not have a right to armoring under the Coastal Act. A significant amount of the armoring that exists around the current outfall is unpermitted development (i.e., has not received a coastal development permit from the Commission) and the City has never responded to our request for an alternatives analysis (prepared by technical expert(s)) demonstrating that the siting and design of the outfall and armoring is the least environmentally damaging feasible alternative. We also have larger questions about whether there are feasible alternatives (in the short or long terms) to bay discharge – I understand that the Regional Board and the City have potentially explored other alternatives but we have not been privy to this analysis.

Most significantly we question how extending the life of the plant and its outfall in this vulnerable shoreline location could be found consistent with the hazard policies of the Coastal Act. The Commission's original permit required the treatment works and related structures to be raised "above the elevation of the 100 year flood, tsunami, or tidal event," but our understanding of that elevation has changed since 1980 and continues to change with sea level rise. The plant's treatment works are elevated above the surrounding land, but they are located adjacent to the mouth of the Elk River on Humboldt Bay surrounded by low-lying wetlands and are vulnerable to inundation by a 975-yr tsunami event (including a near source tsunami event). Because of the shoreline location of the outfall, plant, and lift stations and lines that service the plant, this infrastructure is ultimately going to require more and more armoring to be maintained in place in the long term with increasing impacts to coastal resources. For example, in the winter of 2015-2016, the City placed 885 linear feet of RSP along the shoreline just north of the plant to protect a pressure sewer main (the Crosstown Interceptor) that runs parallel to the shoreline to bring sewage to the shoreline plant. This work continues to be unpermitted after the City withdrew their CDP application to us when Commission staff wrote a recommendation to authorize the RSP only for a limited term pending a more robust analysis of long-term alternatives.

As I state at the beginning of this email, we are really happy you reached out and we are eager to become more informed about your planning process with the City to date and more involved moving forward.

Thanks,
Cristin

Cristin Kenyon, AICP
Supervising Analyst
California Coastal Commission
1385 8th St, Suite 130, Arcata, CA 95521
Phone: 707.826.8950 Ext. 5
Fax: 707.826.8960
To purchase a whale tail license plate or access Coastal Commission information, go to www.coastal.ca.gov

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Sent: Thursday, January 02, 2020 12:29 PM
To: Reed, Charles@Waterboards <Charles.Reed@waterboards.ca.gov>; Merrill, Bob@Coastal <Bob.Merrill@coastal.ca.gov>
Cc: Moore, Heaven@Waterboards <Heaven.Moore@Waterboards.ca.gov>; Goodwin, Cathleen@Waterboards <Cathleen.Goodwin@waterboards.ca.gov>; Bernard, Lisa@Waterboards <Lisa.Bernard@waterboards.ca.gov>; Kenyon, Cristin@Coastal <Cristin.Kenyon@coastal.ca.gov>; Cavalieri, Madeline@Coastal <Madeline.Cavalieri@coastal.ca.gov>; Ducklow, Kelsey@Coastal <Kelsey.Ducklow@coastal.ca.gov>
Subject: RE: City of Eureka's Compliance with CA Bays and Estuaries Policy

Hi Charles
Thanks for reaching out, and we'd be happy to discuss horizontal levees with Regional Water Board and BCDC staff (in fact Shannon Fiala of BCDC used to work for the Coastal Commission as well). In a nutshell, the Commission may support these types of projects if the project is consistent with the Coastal Act, even if it involves fill in the bay. However, the determination of whether a project may be consistent is usually complicated and always case-specific. The complexity in part relates to the fact that this type of structure (horizontal levee) may be considered a type of "shoreline armoring," which the Act generally prohibits/discourages. In some cases, armoring may be allowed if necessary to protect an "existing" structure threatened by erosion, but "existing" has been interpreted to mean that the structure needing protection was built pre-1977. In some cases, the horizontal levee structure may actually fall under the category of "restoration," which is allowed in wetlands and estuaries. An example of the latter in the early planning stages is Humboldt County's concept of restoring salt marsh habitat ("living shoreline") along the Highway 101 corridor between Arcata and Eureka where salt marsh historically existed but has eroded away in recent decades. We haven't seen the details yet on that (the planning study is just getting underway), so we're not entirely sure what the project will end up as, but at least in concept it's being billed as salt marsh restoration, which may be feasible to permit under the Coastal Act, at least on a short-term basis. Our Commission's focus on sea-level rise adaptation in recent years has sometimes resulted in decisions to tie the authorization period for an armoring structure, such as a seawall, to the "life" of the structure needing protection or to a certain timeframe needed for retreat planning and implementation (e.g., 20 years). So, it can be complicated, and the devil is in the details. We'd be happy to join a call to discuss this topic in general and with respect to Eureka's situation specifically. I'm cc-ing others on Commission staff involved in Eureka WWTF and/or critical infrastructure adaptation/living shoreline issues as well. We'll get back to you later next week when everyone's back in the office with upcoming availability for a call.
Thanks again, and happy new year!
Melissa

From: Reed, Charles@Waterboards [mailto:Charles.Reed@waterboards.ca.gov]
Sent: Friday, December 27, 2019 3:45 PM
To: Kraemer, Melissa@Coastal; Merrill, Bob@Coastal
Cc: Moore, Heaven@Waterboards; Goodwin, Cathleen@Waterboards; Bernard, Lisa@Waterboards
Subject: City of Eureka's Compliance with CA Bays and Estuaries Policy

Bob and Melissa,

As you are probably aware the state's Enclosed Bays and Estuaries Policy (EBEP), adopted by the State Board in 1995, states that the discharge of municipal wastewaters and industrial process waters to enclosed bays and estuaries (other than the SF Bay/Delta system) must be phased out by the earliest practicable date. Exceptions may be granted by a

regional board only when the RB finds that the discharge would be consistently treated and discharged and in a manner that would enhance the receiving water quality above which would occur in the absence of the discharge.

Since the early 1980s the City of Eureka's municipal wastewater discharge had been regulated under the California Ocean Plan (COP) under the assumption that all of the municipal effluent was being discharged out of Humboldt Bay on the outgoing tide discharge A recent study of the City of Eureka's discharge concluded that this was not the case. The City's 2016 NPDES permit reflected that determination and now the City is no longer subject to requirements of the COP and, importantly, is no longer operationally exempt from the Enclosed Bays and Estuaries Policy. A 2016 Cease and Desist Order that was adopted along with the NPDES permit and requires the City to comply with the EBEP.

Since earlier this year, we have been meeting with City staff and their consultants to arrive a suite of bay/water quality enhancement projects that the City could complete and be granted an exception to the municipal wastewater prohibition. One project that has been proposed, at our urging, is the construction and operation of a horizontal levee. A few small scale pilot projects have been done (e.g., Oro Loma Sanitary District) and a couple of large scale work plans/scoping plans have been developed (see attached for SF Bay area projects), but none have yet been upscaled and/or permitted.

In discussing the feasibility of a horizonal levee project for Eureka to satisfy the EBEP exception requirement, the City suggested that the Coastal Commission may not look favorability on a project that would result in fill to Humboldt Bay. Since your position on horizontal levees is unknown to us, it has been suggested to us by Christina Toms, R2 staff who we've been consulting with, that we should arrange a phone call with you to discuss the issue and include a couple of staff from the SF Bay Conservation & Development Commission (BCDC) because they have had some experience working with horizontal levee pilot projects that have been approved along the SF Bay.

Sounds intriguing, yes?

We'd like to discuss at your earliest convenience.

Recommended BCDC staff that we would invite:
Megan Hall (415-352-3626 megan.hall@bcdc.ca.gov)
Shannon Fiala (415-352-3665 shannon.fiala@bcdc.ca.gov)

Charles